

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRIAN A. WARREN,	)	
	)	
Petitioner,	)	Case No. 1:05-cv-651
	)	
v.	)	Honorable Wendell A. Miles
	)	
STEPHEN B. MILLER,	)	
	)	
Respondent.	)	
_____	)	

**JUDGMENT**

In accordance with the Opinion entered this day:

**IT IS ORDERED** that Petitioner's application for habeas corpus relief be DISMISSED without prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases for failing to file his habeas petition under 28 U.S.C. § 2254.

**IT IS FURTHER ORDERED** that a certificate of appealability is DENIED because a reasonable jurist could not conclude either that the district court erred in dismissing the petition for failure to file the habeas petition under 28 U.S.C. § 2254 or that Petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated: November 9, 2005

/s/ Wendell A. Miles  
Wendell A. Miles  
Senior United States District Judge